

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be re-submitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) *Time brokerage agreements*: Time brokerage agreements involving radio stations, where the licensee (including all parties under common control) is the brokering entity, there is a principal community contour overlap (predicted or measured 5 mV/m groundwave for AM stations and predicted 3.16 mV/m for FM stations) overlap with the brokered station, and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving television stations where licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both licensed to the same market as defined in the television duopoly rule contained in

§ 73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under § 73.3555 Note 2(j). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC: contracts relating to the joint sale of broadcast advertising time that do not constitute time brokerage agreements pursuant to § 73.3555 Note 2(k); subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

[44 FR 38512, July 2, 1979, as amended at 47 FR 21496, May 18, 1982; 50 FR 4664, Feb. 1, 1985; 50 FR 30951, July 31, 1985; 51 FR 9966, Mar. 24, 1986; 51 FR 15785, Apr. 28, 1986; 57 FR 18093, Apr. 29, 1992; 57 FR 42706, Sept. 16, 1992; 61 FR 36305, July 10, 1996; 63 FR 70050, Dec. 18, 1998; 64 FR 50646, Sept. 17, 1999]

EFFECTIVE DATE NOTE: At 64 FR 50646, Sept. 17, 1999, § 73.3613 was amended by revising paragraphs (d) and (e). This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### § 73.3615 Ownership reports.

(a) With the exception of sole proprietorships and partnerships composed entirely of natural persons, each licensee of a commercial AM, FM, or TV broadcast station shall file an Ownership Report on FCC Form 323 when filing the station's license renewal application and every two years thereafter on the anniversary of the date that its renewal application is required to be

filed. Licensees owning multiple stations with different anniversary dates need file only one Report every two years on the anniversary of their choice, provided that their Reports are not more than two years apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. Ownership Reports shall provide the following information as of a date not more than 60 days prior to the filing of the Report:

(1) In the case of an individual, the name, race or ethnicity, and gender of such individual;

(2) In the case of a partnership, the name, race or ethnicity, and gender of each partner and the interest of each partner. Except as specifically noted below, the names of limited partners shall be reported. A limited partner need not be reported, regardless of the extent of its ownership, if the limited partner is not materially involved, directly or indirectly, in the management or operation of the licensee and the licensee so certifies.

(i) Any change in partners or in their rights will require prior consent of the FCC upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for FCC consent to such changes may be made upon FCC Form 316.

(ii) [Reserved]

(3) In the case of a corporation, association, trust, estate or receivership, the data applicable to each:

(i)(A) The name, residence, citizenship, race or ethnicity, gender, and stockholding of every officer, director, trustee, executor, administrator, receiver and member of an association, and any stockholder which holds stock accounting for 5 percent or more of the votes of the corporation, except that an investment company, insurance company, or bank trust department need be reported only if it holds stock amounting to 10 percent or more of the votes, provided that the licensee certifies that such entity has made no attempt to influence, directly or indirectly, the management or operation of the licensee, and that there is no representation on the licensee's board or

among its officers by any person professionally or otherwise associated with the entity.

(B) A licensee shall report any separate interests known to the licensee to be held ultimately by the same individual or entity, whether those interests are held in custodial accounts, by individual holding corporations or otherwise, if, when aggregated:

(1) The sum of all interests except those held by or through "passive investors" is equal to or exceeds 5 percent; or

(2) The sum of all interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(3) The sum of the interests computed under paragraph (a)(3)(i)(B)(1) of this section plus the sum of the interests computed under paragraph (a)(3)(i)(B)(2) of this section is equal to or exceeds 10 percent.

(C) If the majority of the voting stock of a corporate licensee is held by a single individual or entity, no other stockholding need be reported for that licensee;

(ii) Full information as to family relationship or business association between two or more officials and/or stockholders, trustees, executors, administrators, receivers, and members of any association;

(iii) Capitalization with a description of the classes and voting power of stock authorized by the corporate charter or other appropriate legal instrument and the number of shares of each class issued and outstanding; and

(iv) Full information with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficial interest in the licensee or in its stock accounting for 5% or more of its votes. For example:

(A) Where A is the trustee of stock held for beneficiary B, A shall be reported if A votes the stock or has the sole or shared power to dispose of the stock; B or any other party shall be reported if B or such party votes the stock or has sole power to dispose of the stock or has the power to revoke the trust or replace the trustee at will;

(B) Where X is not a natural person and has attributable ownership interest in the licensee under § 73.3555 of the rules, regardless of its position in the

vertical ownership chain, an Ownership Report shall be filed for X which, except as specifically noted below, must contain the same information as required of a licensee. If X has a voting stockholder interest in the licensee, only those voting interests of X that are cognizable after application of the "multiplier" described in Note 2(d) of § 73.3555 of the rules, if applicable, shall be reported. If X is a corporation, whether or not its interest in the licensee is by virtue of its ownership of voting stock, the officers and directors shall be reported. With respect to those officers and directors whose duties and responsibilities are wholly unrelated to the licensee, and who wish to be relieved of attribution in the licensee, the name, title and duties of these officers and directors, with statements properly documenting that their duties do not involve the licensee, shall be reported.

(4) In the case of all licensees:

(i) A list of all contracts still in effect required to be filed with the FCC by § 73.3613 showing the date of execution and expiration of each contract; and

(ii) Any interest which the licensee may have in any other broadcast station.

(b) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 (1) within 30 days of the date of grant by the FCC of an application for original construction permit and (2) on the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section. A permittee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and it is accurate, in lieu of filing a new Report.

(c) Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior FCC consent must be received under § 73.3540. A transfer of control takes place when an individual or group in

privity, gains or loses affirmative or negative (50%) control. See instructions on FCC Form 323 (Ownership Report). Each permittee or licensee of a commercial AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323 within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the permittee or licensee shall give the information required by the applicable portions of paragraph (a) of this section.

(d) Each licensee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E when filing the station's license renewal application and every two years thereafter on the anniversary of the date that its renewal application is required to be filed. Licensees owning more than one noncommercial educational AM, FM or TV broadcast station with different anniversary dates need file only one Report every two years on the anniversary of their choice, provided that their Reports are not more than two years apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. Ownership reports shall give the following information as of a date not more than 60 days prior to the filing of the Ownership Report:

(1) The following information as to all officers, members of governing board, and holders of 1% or more ownership interest (if any): Name, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected.

(2) Full information with respect to the interest and identity of any individual, organization, corporation, association, or any other entity which has direct or indirect control over the licensee or permittee.

(3) A list of all contracts still in effect required by § 73.3613 to be filed with the FCC, showing the date of execution and expiration of each contract.

(4) Any interest which the licensee or permittee or any of its officers, members of the governing board, and holders of 1% or more ownership interest (if

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any) held in any other broadcast station.

(e) Each permittee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E:

(1) Within 30 days of the date of grant by the FCC of an application for original construction permit and;

(2) On the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable form. A permittee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and it is accurate, in lieu of filing a new Report.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the noncommercial educational permittee or licensee shall give the information required by the applicable form.

(g) A copy of all ownership and supplemental ownership reports and related material filed pursuant to this section shall be maintained and made available for public inspection locally as required by §§ 73.3526 and 73.3527.

[44 FR 38513, July 2, 1979, as amended at 49 FR 19498, May 8, 1984; 50 FR 27450, July 3, 1985; 50 FR 40016, Oct. 1, 1985; 53 FR 2499, Jan. 28, 1988; 53 FR 5684, Feb. 25, 1988; 63 FR 70050, Dec. 18, 1998]

## § 73.3617 Broadcast information available on the Internet.

The Mass Media Bureau and each of its Divisions provide information on the Internet regarding broadcast rules and policies, pending and completed rulemakings, and pending applications. These sites also include copies of public notices and texts of recent decisions. The Mass Media Bureau Internet address is <http://www.fcc.gov/mmb/>; the Audio Services Division address is <http://www.fcc.gov/mmb/asd/>; the Video Services Division address is <http://www.fcc.gov/mmb/vsd/>; the Policy and Rules Division address is <http://www.fcc.gov/mmb/prd/>; and the En-

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forcement Division address is <http://www.fcc.gov/mmb/enf/>.

[63 FR 33878, June 22, 1998]

## § 73.3999 Enforcement of 18 U.S.C. 1464 (restrictions on the transmission of obscene and indecent material).

(a) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

(b) No licensee of a radio or television broadcast station shall broadcast on any day between 6 a.m. and 10 p.m. any material which is indecent.

[60 FR 44439, Aug. 28, 1995]

## § 73.4000 Listing of FCC policies.

The following sections list, solely for the purpose of reference and convenience, certain Policies of the FCC. The present listing of FCC policies and citations thereto should not be relied upon as an all-inclusive list, and the failure to include a policy in this list does not affect its validity. Each section bears the title of one Policy and the citations which will direct the user to the specific document(s) pertaining to that Policy.

[44 FR 36387, June 22, 1979]

## § 73.4005 Advertising—refusal to sell.

See 412 U.S. 94 (Supreme Court, 1973).

[44 FR 36388, June 22, 1979]

## § 73.4015 Applications for AM and FM construction permits, incomplete or defective.

See Public Notice, FCC 84–366, dated August 2, 1984, 49 FR 47331, December 3, 1984.

[49 FR 50048, Dec. 26, 1984]

## § 73.4017 Application processing: Commercial FM stations.

See Report and Order, MM Docket 84–750, FCC 85–125, adopted March 4, 1985, 50 FR 19936, May 13, 1985.

[59 FR 52086, Oct. 14, 1994]

## § 73.4045 Barter agreements.

See Order, FCC 72–167, adopted February 16, 1972, 33 FCC 2d 653; 37 FR 4009, February 25, 1972.

[44 FR 36388, June 22, 1979]